

**Congress of the United States**  
**Washington, DC 20515**

May 4, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Azar:

We are deeply concerned at recent news reports suggesting that the U.S. Department of Health and Human Services (HHS) plans to rewrite the regulations for Section 1557 of the Affordable Care Act (also known as “the Health Care Rights Law”) to remove existing nondiscrimination protections based on sexual orientation and gender identity. We ask you to halt this effort and issue guidance clarifying that all resources, including services related to coronavirus, will be provided equally to those in need and in a manner that does not discriminate against people based on their sexual orientation or gender identity.

The Health Care Rights Law is key to ensuring that everyone can access the care they need, free of discriminatory barriers, and enjoy the full benefits and protections of the Affordable Care Act. This law builds on longstanding federal civil rights laws — and is the first broad federal protection against discrimination based on sex in health care, designed to correct a pervasive history of sex discrimination.

HHS’s mission is “to enhance and protect the health and well-being of all Americans.”<sup>1</sup> Any efforts to deny the LGBTQ community access to basic health care resources and services, based solely on their sexual orientation and gender identity, is harmful and in direct conflict with HHS’s stated mission. It is particularly troubling that HHS seeks to move forward with rule changes that would allow for providers to discriminate against LGBTQ individuals while we are in the midst of a public health emergency to which LGBTQ people are particularly vulnerable.

The need for the Health Care Rights Law is clear. As is the case with many marginalized communities, the LGBTQ+ community has unique vulnerabilities that can result in unfavorable outcomes during the coronavirus pandemic. It is estimated that 65 percent of LGBTQ adults have pre-existing conditions such as diabetes, asthma, heart disease, or HIV.<sup>2</sup> According to the Centers for Disease Control and Prevention, these conditions put them at high risk for severe illness from COVID-19. Elder LGBTQ+ Americans may be even more vulnerable as they have faced a lifetime of discrimination and are more likely to live in poverty than the general public.

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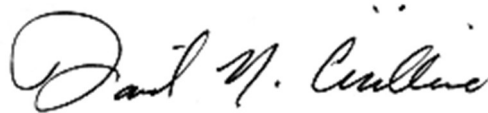
<sup>1</sup> U.S. Department of Health and Human Services, *About HHS*, <https://www.hhs.gov/about/index.html>

<sup>2</sup> Sharita Gruberg, *An Effective Response to the Coronavirus Requires Targeted Assistance for LGBTQ People*, Center for American Progress (April 9, 2020), <https://www.americanprogress.org/issues/lgbtq-rights/news/2020/04/09/482895/effective-response-coronavirus-requires-targeted-assistance-lgbtq-people/>

LGBTQ+ people also face barriers to accessing health care, with 8 percent of lesbian, gay and bisexual individuals and 29 percent of transgender individuals reporting that they had been turned away by a health care provider because of their sexual orientation.<sup>3</sup> To create additional barriers to this community during a pandemic, and when so many Americans are living in fear and uncertainty, is extremely troubling.

We are asking you to immediately suspend any efforts to strip protections away from the LGBTQ community and maintain the important safeguards provided by the Health Care Rights Law. In addition, we urge you to issue guidance that unequivocally states that all relief provided under HHS's authority will be distributed fairly and in a nondiscriminatory manner with respect to LGBTQ+ people.

Sincerely,



David N. Cicilline  
Member of Congress

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<sup>3</sup> [\*Id.\*](#)

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